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Filing date: **10/06/2016**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

## Petition for Cancellation

Notice is hereby given that the following party requests to cancel indicated registration.

### Petitioner Information

Name	Otsuka Pharmaceutical Co., Ltd.		
Entity	Corporation	Citizenship	Japan
Address	2-9, Kanda-Tsukasamachi Chiyoda-ku Tokyo, 101-8535 JAPAN		

Attorney information	Harold Milstein Sheppard Mullin Richter & Hampton LLP 379 Lytton Avenue Palo Alto, CA 94301 UNITED STATES svtmdocketing@sheppardmullin.com Phone:650-815-2600		
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### Registration Subject to Cancellation

Registration No	4912555	Registration date	03/08/2016
International Registration No.	NONE	International Registration Date	NONE
Registrant	Sanofi 54, rue La Boétie Paris, FRANCE		

### Goods/Services Subject to Cancellation

Class 005. First Use: 0 First Use In Commerce: 0 All goods and services in the class are cancelled, namely: Pharmaceutical products for the treatment of cardiovascular diseases, central and peripheral nervous system diseases, respiratory diseases, cancer, allergies, gynecological diseases, rheumatic diseases, urological diseases, gastroenterological diseases, infectious diseases, eye diseases, dermatological diseases, autoimmune diseases, blood diseases, genital diseases, endocrine diseases, intestinal diseases, internal medicine diseases; hormones; vitamins; dietetic and food substances adapted for medical use, namely, food for enteral feeding, food supplements, nutritional meal replacement drinks, nutritional meal replacement powders
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### Grounds for Cancellation

Priority and likelihood of confusion	Trademark Act Sections 14(1) and 2(d)
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### Mark Cited by Petitioner as Basis for Cancellation

U.S. Registration No.	4911463	Application Date	04/24/2015
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Registration Date	03/08/2016	Foreign Priority Date	10/27/2014
Word Mark	ONMETIO		
Design Mark			
Description of Mark	The mark consists of the stylized wording "ONMETIO".		
Goods/Services	Class 005. First use: First Use: 0 First Use In Commerce: 0 Pharmaceutical compositions for treating cancer and immune disorders; pharmaceutical preparations for treating cancer and immune disorders		

Attachments	79167522#TMSN.png( bytes ) ONACTIO.PDF(627555 bytes )
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### **Certificate of Service**

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/ChelseaaBush/
Name	Chelseaa Bush
Date	10/06/2016

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

OTSUKA PHARMACEUTICAL CO., LTD.,

Petitioner,

v.

SANOFI,

Respondent.

Cancellation No. \_\_\_\_\_

Registration No. 4912555

Mark: ONACTIO

Registered: March 8, 2016

**PETITION FOR CANCELLATION**

Petitioner, Otsuka Pharmaceutical Co., Ltd. ("Petitioner"), a corporation organized and existing under the laws of Japan, having an address at 2-9, Kanda-Tsukasamachi, Chiyoda-ku Tokyo 101-8535 Japan, believes it will be damaged by the continued registration of the mark ONACTIO shown in Registration No. 4912555 for goods in International Class 5, registered March 8, 2016, with a priority date claim of December 17, 2014, by Respondent, Sanofi ("Respondent"), a corporation organized and existing under the laws of France, having an address listed at 54, rue La Boétie Paris France, and hereby petitions to cancel the same.

As grounds for cancellation, Petitioner alleges that:

1. Petitioner is a pharmaceutical company focused on the development and commercialization of innovative pharmaceutical products that may have a major impact on human health. Petitioner's focus is on neuroscience, oncology, and cardio-renal therapeutic areas. Petitioner is the owner of a U.S. Trademark Registration for the trademark ONMETIO at Registration No. 4911463, registered March 8, 2016, with a priority date of October 27, 2014,

for “Pharmaceutical compositions for treating cancer and immune disorders; pharmaceutical preparations for treating cancer and immune disorders” in Class 5 (the “ONMETIO Mark”).

2. Petitioner's registration for the ONMETIO Mark listed above is valid, subsisting, and in full force and effect.

3. On March 8, 2016, Respondent was issued a registration by the U.S. Patent and Trademark Office for ONACTIO in connection with “pharmaceutical products for the treatment of cardiovascular diseases, central and peripheral nervous system diseases, respiratory diseases, cancer, allergies, gynecological diseases, rheumatic diseases, urological diseases, gastroenterological diseases, infectious diseases, eye diseases, dermatological diseases, autoimmune diseases, blood diseases, genital diseases, endocrine diseases, intestinal diseases, internal medicine diseases; hormones; vitamins; dietetic and food substances adapted for medical use, namely, food for enteral feeding, food supplements, nutritional meal replacement drinks, nutritional meal replacement powders” in Class 5.

4. There is no issue as to priority. The priority date claimed in Respondent’s ONACTIO registration is December 17, 2014. The priority date for Petitioner’s ONMETIO registration is October 27, 2014. Petitioner’s priority date for ONMETIO is thus well before the priority date claimed by Respondent for ONACTIO.

5. Upon information and belief, Respondent has not used ONACTIO in interstate commerce in the United States.

6. Petitioner’s ONMETIO Mark is an inherently distinctive and strong mark, serving to distinguish the source of Petitioner's goods.

7. Respondent's ONACTIO mark is highly similar in sound, appearance, and commercial impression to Petitioner’s ONMETIO Mark.

8. Respondent has registered the ONACTIO mark in connection with goods that are highly related to the goods of Petitioner offered under its ONMETIO Mark. Respondent's registration of the ONACTIO mark in connection with the goods set forth in Registration No. 4912555 is likely to cause confusion, to cause mistake, and to deceive customers, potential customers, and others as to the source of its goods. Such confusion will cause harm to Petitioner and the consuming public. Consumers who become familiar with Petitioner's ONMETIO Mark would be likely to buy Respondent's goods offered under the ONACTIO mark as goods offered by Petitioner. Furthermore, any defect, objection or fault found with Respondent's goods marketed under the ONACTIO mark would be likely to reflect upon and injure the reputation that Petitioner establishes for its goods offered under its ONMETIO Mark.

9. Accordingly, for each and every reason stated above, Petitioner believes that it will be damaged by the continued registration of Respondent's ONACTIO mark and opposes Registration No. 4912555.

WHEREFORE, Petitioner prays that this cancellation be sustained and that the registration of Respondent's ONACTIO mark at Registration No. 4912555 be cancelled.

October 6, 2016	
	Respectfully submitted, SHEPPARD, MULLIN, RICHTER & HAMPTON LLP By:  Harold J. Milstein Chelseaa Bush Attorneys for Petitioner Otsuka Pharmaceutical Co., Ltd.

379 Lytton Avenue  
Palo Alto, CA 94301  
Telephone: (650) 815-2600

**CERTIFICATE OF SERVICE**

This is to certify that a copy of the foregoing PETITION FOR CANCELLATION was served by first class mail, postage prepaid, on October 6, 2016 upon Respondent at its address of record at:

Sanofi  
54, rue La Boétie Paris  
FRANCE

In addition, a courtesy copy of the foregoing PETITION FOR CANCELLATION was sent by first class mail, postage prepaid, on October 6, 2016, upon Respondent's counsel of record as follows:

Susan Upton Douglass  
Fross Zelnick Lehrman & Zissu P C  
866 United Nations Plz  
New York, New York 10017-1822



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Chelsea Bush